

LAST CHANCE AGREEMENT AND RELEASE OF ALL CLAIMS

This Last Chance Agreement and Release of All Claims (hereinafter "the Agreement") is entered into on the date set forth below, by Officer James Quilty ("Officer Quilty") and between his collective bargaining representatives, the New England Police Benevolent Association Local 82 and the Natick Patrol Officers' Association (collectively the "Unions"), and the Town of Natick (hereinafter "the Town").

WHEREAS, the Chief of Police notified Officer Quilty on July 2, 2020 that he was being placed on Administrative Leave pending an investigation of his behavior on April 12, 2020. Specifically, Officer Quilty is alleged to have repeatedly touched [REDACTED] an off duty setting. Officer Quilty's actions were unwelcome and made [REDACTED] uncomfortable; and, these allegations were sufficient to allege a violation of the Natick Sexual Harassment policy; and

WHEREAS, the Town notified Officer Quilty via letter dated October 30, 2020, that an Appointing Authority hearing was going to be held based upon the aforementioned allegations concerning his off duty conduct on April 12, 2020, to determine whether just cause exists for disciplinary action, up to and including the termination of his employment with the Natick Police Department; and,

WHEREAS, The Town believes that they have sufficient cause to discipline Ofc. Quilty based upon his conduct on April 12, 2020; and,

WHEREAS, the Town, the Unions, and Officer Quilty hereby acknowledge and represent to the others that each party is entering into this Agreement as their free act and deed, without any duress or compulsion and after acquiring such legal and other advice as each wishes; and,

WHEREAS, in entering into this Agreement the parties each rely on the undertakings of the others; and,

WHEREAS, the parties believe that a mutually acceptable settlement of this matter is preferable to continuing with the disciplinary process;

NOW THEREFORE, in consideration of the foregoing and of the mutual promises, representations, and undertakings of the parties set forth herein, the adequacy and sufficiency of which are hereby acknowledged, and in lieu of continuing the disciplinary process and imposing appropriate discipline, up to and including termination, as a result of an Appointing Authority hearing, and in full and final settlement of all claims or potential claims against the Town which may have arisen as a result of Officer Quilty's employment by the Town, the parties agree as follows:

1. Sufficient Grounds - In exchange for the Town agreeing not to seek the termination of Officer Quilty and instead provide him with one last chance, Officer Quilty agrees to adhere to the following conditions, the violation of any one, at any time, shall result in his immediate termination, subject only to the provisions in Paragraphs #4 and #5 of this Agreement.

Redacted

2. Suspension - Effective upon execution of this Agreement, Officer Quilty accepts an unpaid suspension lasting for the period of forty (40) scheduled shifts. Should Officer Quilty be subject to criminal arraignment for the alleged conduct detailed in this Agreement, the Town reserves the right to seek further discipline, subject to all parties' rights and privileges, including but not limited to Ofc. Quilty's appeal rights outlined in Paragraph #5 of this Agreement. The Parties agree that any such further discipline is not subject to application of the Last Chance Provision, set forth in paragraph four (4) of this Agreement.

3. Sexual Harassment Training – Officer Quilty must attend and participate in training relative to sexual harassment. This training will be selected by the Chief of Police and paid for by the Town but must be completed on Officer Quilty's personal time. Every effort should be made so that Officer Quilty completes this training prior to the end of the suspension described in paragraph two (2) of this Agreement.

4. Last Chance Provision – Following the completion of the unpaid suspension set forth in paragraph two (2), Officer Quilty expressly agrees, as a condition of his continued employment as an officer with the Natick Police Department, to conform to the rules, regulations, policies, procedures, practices, protocols, job descriptions, performance standards, and reasonable expectations of the Town and the Natick Police Department. The Unions and Officer Quilty expressly acknowledge and agree however, that only the sustainment of any violation of the Town of Natick's Sexual Harassment Policy will trigger application of this Agreement's immediate termination clause. The Unions and Officer Quilty expressly acknowledge and agree that any violation of the Town's Sexual Harassment Policy will lead to an automatic termination at the sole discretion of the Town, subject only to arbitration as set forth in paragraph five (5) below. Though the Town may choose in its discretion to impose discipline less than termination on the occasion of such a violation, any such decision to impose discipline less than termination shall not alter or waive the right of the Town pursuant to this Agreement to terminate Officer Quilty for any single infraction thereafter. This Last Chance Provision shall be in effect for a period of five (5) years following the completion of the unpaid suspension set forth in paragraph two (2).

5. Grievance and Arbitration Process - Should Officer Quilty be terminated pursuant to paragraph four (4) above, then Officer Quilty and/or his Unions may challenge termination through the contractual grievance and arbitration procedure, provided that the sole and limited issue before the arbitrator in such arbitration shall be a determination of whether or not the Town has proven that Officer Quilty engaged in an act of commission or omission that provides a basis for termination under paragraph four (4). If the arbitrator finds that Officer Quilty has engaged in the act of commission or omission that the Town relied upon under paragraph four (4) for his termination, then the arbitrator shall uphold the termination, without further recourse.

6. Waiver of Rights - As a condition of this Agreement, Officer Quilty and the Unions agree that they shall not pursue a remedy in any forum in connection with this suspension and Last Chance Agreement, including but not limited to a grievance, arbitration, prohibited practice charge, or any proceeding in any administrative agency, state or federal court. Officer Quilty and the Unions hereby waive any such rights that they may have in connection with this suspension and Last Chance Agreement.

7. Legal Prohibitions - Nothing in this Agreement is intended to limit the rights of any party in any way prohibited by law. If any portion of this Agreement is found unenforceable, the remainder will remain in full force and effect.

8. Authority of Police Chief - Nothing in this Agreement shall be construed as to limit the authority of the Natick Chief of Police to discipline any member of the Natick Police Department for any reason and at any time as deemed appropriate by the Chief provided such is done in accordance with the Parties' respective Collective Bargaining Agreements and applicable Laws.

9. Personnel File - Officer Quilty and the Unions understand that this Agreement will be maintained in his personnel file and that it will become a permanent part of his personnel file. Both Officer Quilty and the Town recognize and acknowledge that access to the personnel file will only be made in accordance with state and federal law or subject to a Court order.

10. No Precedent Set - All parties understand that the terms and conditions of this Agreement are non-precedent setting. They reflect a unique agreement reached among the parties with respect to these facts and may not be cited as precedent of any kind in any other pending or future matters. This Agreement may not be introduced in any subsequent proceeding between the Unions and the Town, except a proceeding to enforce the terms of this Agreement.

11. Voluntariness - Officer Quilty acknowledges that he voluntarily enters into this Agreement with full knowledge of its terms, with full knowledge of the Town's expectations for his continued employment, and with full knowledge of the consequences of his failure to comply with those terms, (i.e., immediate termination). Officer Quilty further acknowledges that, prior to signing this Agreement, he has had the opportunity to consult with his collective bargaining representative, as well as personal legal counsel of his own choosing.

12. Entirety - This Agreement represents the entire agreement of the parties, and supersedes any and all prior agreements or understandings, whether written or oral.

13. Effective Date - This Agreement will become effective upon the date of the last signature of a party/representative set forth below.

14. Release of Claims

a. In consideration of the actions by the Town referenced in paragraphs one through four (1-4), Officer Quilty hereby fully and finally releases, waives, remises, and forever discharges the Town from any and all manner of claims, demands, liabilities, and causes of action, whether known or unknown, fixed or contingent, from the beginning of time through date of this Agreement, including, without limitation, **any and all claims arising out of Officer Quilty's employment by the Town**, including but not limited to claims under the Unions collective bargaining agreements with the Town, claims under state or federal law, including but not limited to G.L. c. 31, G.L. c. 151B, Title VII, the Age Discrimination in Employment Act, and

the Americans with Disabilities Act, as well as any claims arising under public policy, contract (express or implied, written or oral), tort or common law, including but not limited to wrongful discharge, constructive discharge, defamation, infliction of emotional distress (intentional or negligent), misrepresentation, negligence, promissory estoppel, unjust enrichment and any claims arising from the Town's employment policies or procedures, and further including but not limited to claims or available remedies to Officer Quilty which were filed or could have been filed in federal or state court, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Massachusetts Division of Labor Relations, the Civil Service Commission or the American Arbitration Association, any and all claims arising from the Town's actions, or inactions, in its investigation, handling and imposition of discipline against Officer Quilty as a result of the alleged conduct detailed herein.

b. The Unions do hereby agree to release and forever discharge the Town of and from all demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, damages, and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and in equity, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, which the Unions, acting on their own behalf or on behalf of Officer Quilty as his representative, may now have or ever had against the Town, from the beginning of the world to this date, **arising from or in connection with or in any manner relating to the Town's investigation, handling and imposition of discipline against Officer Quilty as a result of the alleged conduct detailed in this Agreement**, including claims which were filed or could have been filed in federal or state court, the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the Massachusetts Division of Labor Relations, the Civil Service Commission or the American Arbitration Association.

15. No Admission of Liability - It is expressly understood and agreed that the actions by the Parties pursuant to this Agreement are not, and shall not be construed to be, an admission of liability by Officer Quilty, the Unions, the Town or any other person or entity. The Parties agree that they are settling and compromising disputed claims as to which all of the Parties each expressly deny any liability.

16. No "Whistleblower" Retaliation - Officer Quilty affirms that he has not been retaliated against for reporting or cooperating in any investigations of any allegations of wrongdoing or inappropriate conduct by the Town.

17. No Discrimination - Officer Quilty affirms that all decisions by the Town concerning his employment status, pay and benefits through the date of this Agreement were not discriminatory based on age, disability, race, color, sex, religion, national origin or any other classifications protected by law.

18. Binding Effect; Parties Bound; Governing Law - This Agreement shall inure to the benefit of, and shall be binding upon, each and all of the parties hereto. This Agreement is the product of negotiation and preparation by each of the parties, and will not be deemed prepared or drafted by one party or another, or its attorneys, and shall be construed accordingly. This Agreement shall be governed by, and construed in accordance with the laws of the

Commonwealth of Massachusetts and enforceable solely through the grievance and arbitration procedure of the collective bargaining agreement.

19. Representations and Warranties - The Parties represent and warrant as follows, which representations and warranties shall survive the execution and delivery of this Agreement:

- a. None of the Parties executing this Agreement have relied upon any statement, representation, or promise, oral or written, of any other party to this Agreement, except as expressly set forth herein;
- b. No representation, warranty, promise or condition, whether written or oral, that is not specifically incorporated herein, shall be binding upon any of the Parties hereto;
- c. None of the Parties to this Agreement have filed any lawsuit concerning the Release against any other Party executing this Agreement.

20. Entire Agreement - The Parties each acknowledge and represent that no promise or representation outside of this Agreement has been made to them and that this Agreement contains the entire understanding and agreement between the Parties and it contains all terms and conditions pertaining to the compromise and settlement of the disputes referenced in the Agreement. The Parties further acknowledge that this Agreement is an integrated document and may not be changed or modified, except in a writing specifically referring hereto and duly executed by the parties. It is further understood and agreed that the terms of this Agreement are contractual and not a mere recital and this Agreement shall take effect as a sealed instrument.

21. Severability - It is further understood that should any portion of this Agreement that is not a material term be found to be invalid for any reason, whatsoever, this Agreement shall be read as if it did not contain such invalid portion; and, the parties hereto intend for any such invalid non-material portion to be severable from the remainder.

22. Headings and Captions - Headings and captions contained in this Agreement are for convenience only, and shall not be considered for any purpose in construing this Agreement.

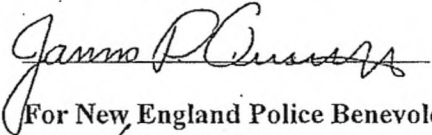
23. Multiple Originals - There shall be four fully executed originals of this, so that the Unions, the Town, and Officer Quilty, each may possess a fully executive original. Any one of the four originals may be presented as evidence of this agreement without the need to present the other fully executed originals.

24. No Third Party Beneficiaries Intended - This Agreement and the provisions contained herein are not intended to and shall not benefit any person or entity not a party to this Agreement. No provisions of this Agreement are intended to make any person or entity who is not a party to this Agreement a third party beneficiary. The Parties expressly agree that this Agreement shall not be used for any other purposes, specifically including but not limited to any use as evidence of past practices in any collective bargaining sessions, disputes, grievances, claims, causes of action, lawsuits or arbitrations involving other employees of the Town.

26. Right to Consult with Attorneys; Terms Understood - The parties each acknowledge that they have carefully read the contents of this Agreement, and know and understand the contents of this Agreement. The parties further acknowledge that they have had the opportunity to obtain the advice and counsel of an attorney of their choice to explain the legal consequences of this Agreement. The parties understand the terms, words, and phrases which are contained in this Agreement.

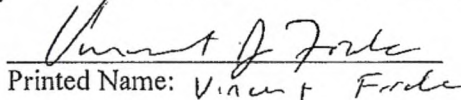
EXECUTED AS A SEALED INSTRUMENT THIS _____ DAY OF MARCH, 2021.

Officer James Quilty



For New England Police Benevolent Association, Inc., Local 82

3/25/2021
Date


Printed Name: Vincent J. Forde

4/5/21
Date

For Natick Patrol Officers' Association


Printed Name: Patrick Grady

3-25-2021
Date

For the Town of Natick

Jonathan H. Freedman, Chair

Date

Karen Adelman-Foster, Vice Chair

Date

Richard P. Jennett, Jr., Clerk

Date

Susan G. Salamoff

Date

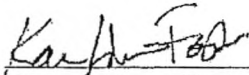
Michael J. Hickey, Jr.

Date

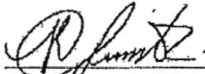
**Select Board signature page to follow*

The Natick Select Board

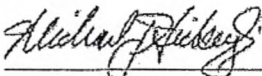
By:



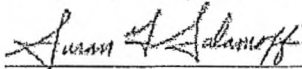
Karen Adelman-Foster, Chair



Richard Jennett, Jr., Vice-Chair



Michael J. Hickey, Jr., Clerk



Susan G. Salamoff

Paul Joseph

Dated: 4/6/21